

## **Questions and Answers Concerning the Electronic Availability of Transcripts and Transcript Redaction Procedures**

November, 2018

1. Q. **In a nutshell, what does the new Judicial Conference Policy require attorneys to do?**  
A. Attorneys are required to review filed transcripts of Federal Court proceedings for redaction purposes. The following information should be redacted:
  - (1) Social Security numbers (except the last four digits)
  - (2) Financial account numbers (except the last four digits)
  - (3) Dates of birth (except the year)
  - (4) Names of individuals known to be a minors (initials only)
  - (5) home addresses in criminal cases (except for city and state)
  
2. Q. **What part of the transcript is each attorney responsible for reviewing?**  
A. Attorneys are responsible for reviewing the following parts of the transcript related to the party(ies) they represent:
  - (1) Opening and closing statements on the party's behalf;
  - (2) Statements of the party;
  - (3) The testimony of any witness called by the party;
  - (4) Sentencing proceedings; and
  - (5) Any other portion of the transcript as ordered by the court.
  
3. Q. **What transcripts are covered by the new procedures?**  
A. Any transcript of a hearing conducted in Federal Court in the District of South Dakota except voir dire transcripts.
  
4. Q. **Is the attorney notified when a transcript is filed and needs to be reviewed?**  
A. Yes. When the transcript is filed the attorney will receive a notice of electronic filing from the CM/ECF system.
  
5. Q. **How long does the attorney have to review the transcript?**  
A. The attorney will have twenty-one (21) days to review the transcript and file a redaction request.
  
6. Q. **If a transcript is filed, but an attorney did not order a copy of the transcript, must that attorney purchase a copy of the transcript from the court reporter to perform the review?**  
A. No. Unless sealed, the transcript will be available on the court's public access terminals in the Clerk's Office for anyone to view. If the transcript is sealed, the attorney can contact the Clerk's Office for access to the transcript for review purposes.

7. Q. **When and how will the electronic transcript be made available to the public?**  
A. The public can access court documents in two ways. (1) At the public terminals located at the Clerk's Office. (2) Remotely on the internet using the PACER system (**Public Access to Court Electronic Records**).
- Unless a transcript is sealed, it is available to be viewed on the public access terminals located in the Clerk's Office as soon as it is filed. This includes access to both redacted and unredacted versions of a transcript.
- The public will have remote PACER (internet) access to the transcript 90 days after it is filed with the Clerk's Office. If the transcript is redacted, the public will only be able to access the redacted version of the transcript via the internet. The unredacted version will only be available to the public at the public terminals in the Clerk's Office.
8. Q. **If the attorney purchases a transcript from the court reporter, will the attorney also have PACER access to the transcript during the 90 day period?**  
A. Yes, but there is no "free look." PACER fees apply even though the attorney has purchased the transcript. In addition, PACER fees will not be capped at 30 pages for a transcript, as they are for some court documents.
9. Q. **CJA attorneys are required to submit their final voucher 45 days after a case is closed: If a transcript is filed after the voucher is submitted, can the attorney bill the time required for the review?**  
A. Yes. Under the Criminal Justice Act, attorneys are entitled to compensation for functions reasonably performed to fulfill their obligations under the Act.
10. Q. **If an attorney misses the deadline to submit a redaction request, what happens?**  
A. 90 days after the transcript is filed, it will become available for printing at the public access terminals located in the Clerk's Office. It will also become remotely available on the internet to download using the PACER system.
11. Q. **Is there a safety net?**  
A. No. Neither the Clerk's Office nor the court reporter will review transcripts for compliance with the Judicial Conference Policy. This is solely the attorney's responsibility.

12. Q. **When filing a redaction request, it is necessary for an attorney to file a motion to seal the request?**
- A. No. The redaction request can only be accessed by attorneys of record in the case and court staff. The redaction request is not available for viewing by the public.
13. Q. **The redacted version of the transcript will be available to the public. Will the original unredacted transcript be available to the public?**
- A. Yes. Unless an attorney successfully moves the court to seal a transcript, the unredacted transcript will always be available at the public access terminals located in the Clerk's Office. The public can only view the transcript for the first 90 days after it is filed. After 90 days, the unredacted transcript will be available for viewing and printing at the public access terminals located in the Clerk's Office. If a party wants a transcript to be sealed, he/she should consult the local rules regarding motions to seal.